

## **Deficiency Status Report 2**

Status Report Submitted: January 11, 2008

**CUPA Name:** San Joaquin County Environmental Health

**Evaluation Date:** July 18 and 19, 2007

**Next Status Report Due:** January 15, 2008

### **State Evaluation Team:**

**Cal/EPA Team Leader:** Kareem Taylor

**DTSC Evaluator:** Mark Pear

**OES Evaluator:** Fred Mehr

**OSFM Evaluator:** Francis Mateo

**Based on the CUPA's corrective action responses, the following deficiencies are considered corrected and no further updates are required:**

1, 2, 4, 5

Please update the deficiencies below that remain in progress.

## **Deficiencies and Corrective Actions**

1. **Deficiency:** In the Annual Single Fee Summary Report (Report 2) for fiscal year (FY) 05/06, the CUPA did not including the amount of single fee billed and collected for its participating agency (PA) into the total amount of single fee billed and collected. Refer to the row in Report 2 labeled "Single Fee."

**Preliminary Corrective Actions:** On September 30, 2007, submit the CUPA's FY 06/07 Summary Report 2 that correctly reports the total single fee billed and collected in the "Single Fee" row. This row is for reporting the sums of the single fee billed, waived, and collected for the CUPA and its PA.

**CUPA's 1<sup>st</sup> Status Update:** See Report 2 attached.

**Cal/EPA's 1<sup>st</sup> Response (11-19-07):** Due to the CUPA's corrective actions, this deficiency is considered corrected.

2. **Deficiency:** In the Annual Enforcement Summary Report (Report 4) for FYs 03/04 through 05/06, the CUPA did not report the correct number of facilities with violations. There was a substantially larger number of routine inspections that return to compliance (RTC) reported in Annual Inspection

Summary Report (Report 3) than the number of facilities cited for violations.

**Preliminary Corrective Actions:** On September 30, 2007, submit the CUPA's FY 06/07 Summary Report 4 that correctly reports the number of facilities with violations and the number of informal enforcement actions for each program element.

**CUPA's 1<sup>st</sup> Status Update:**

**Response for Business Plans:** This was a problem of interpretation. Sometimes the violation is corrected on site and does not go further. Sometimes the inspection report indicates a deficiency that is corrected within the 10 day deadline. We may count those but did not consider all of them an informal enforcement action. For uncorrected deficiencies and for deficiencies outside of inspections, a DA letter is sent. We considered that an informal enforcement action. Then Civil Enforcement and Criminal Enforcement actions are counted if the DA files on the business based on our referral.

The 06/07 report indicates routine inspections that returned to compliance if the correction was within the 10 day deadline following inspection, it indicates informal enforcement actions if a DA letter (the second step of routine compliance) is sent to the business, and enforcement actions if the DA files an action against a business based on our referral.

**Response for all program elements:** We believe everything reported was correct but our interpretations of how to report compliance actions was not the same as the State's.

Please see reports 3 & 4 attached.

**Cal/EPA's 1<sup>st</sup> Response (11-19-07):** Due to the CUPA's corrective actions, this deficiency is considered corrected.

3. **Deficiency:** The CUPA's PA is not inspecting CalARP facilities once every three years.

**Preliminary Corrective Actions:** By July 19, 2008, the CUPA's PA will inspect at least one-third of its CalARP facilities.

**CUPA's 1<sup>st</sup> Status Update:** Due to emergency response and staff turnover we did not inspect enough CalARP sites last year. We have reassigned this function to a more experienced staff member and reviewed the program to ensure that inspection rates go up. We should attain compliance by July 2008.

**Cal/EPA's 1<sup>st</sup> Response (11-19-07):** Please submit with the next status report an action plan for 2008 on correcting this deficiency that includes but is not limited to: staffing for conducting inspections, actual number of routine inspections conducted per month/quarter/fiscal year, total number of CalARP regulated facilities.

**CUPA's 2<sup>nd</sup> Status Update:** RMP program was reassigned within the office and a plan for re-establishing a proper inspection schedule worked out. A goal of 25 RMP inspections for the period of December 1, 2007 to February 29, 2008 was established and the list of RMP facilities currently working on a RMP or due for a five-year inspection was re-confirmed. Facilities scheduled for inspection in 2008 were entered in the HMMP Administration Module. As of January 11, 2008 4 RMP inspections have been conducted.

4. **Deficiency:** The CUPA has not established a Cal ARP dispute resolution procedure.

**Preliminary Corrective Actions:** By October 19, 2007, establish a CalARP dispute resolution procedure that contains all of the required element of Title 19, Section 2780.1(a)

**CUPA's 1<sup>st</sup> Status Update:** Dispute resolution is attached.

**Cal/EPA's 1<sup>st</sup> Response (11-19-07):** Due to the CUPA's corrective actions, this deficiency is considered corrected.

5. **Deficiency:** The CUPA did not conduct a complete oversight inspection on 03/21/07.

**Preliminary Corrective Actions:** none

**Cal/EPA's 1<sup>st</sup> Response:** This deficiency was corrected onsite.

6. **Deficiency:** The CUPA is not conducting inspections with a frequency that is consistent with its Inspection and Enforcement Plan and with the inspection of other program elements. The CUPA has not inspected all 1257 hazardous waste generators (HWG) that have been identified by the CUPA in the last three fiscal years.

**Preliminary Corrective Actions:** By July 19, 2008, the CUPA will inspect at least one-third of its HWG facilities.

Additional resources need to be committed to the hazardous waste program.

**CUPA's 1<sup>st</sup> Status Update:** We have had a 100% turn over in staff the last 3 years. We will be completely staffed as of October 29, 2007. Complete staffing will allow us to get our scheduled inspections performed once every 3 years for the small hazardous waste generators and annually for the hazardous waste generators over 5 tons, consistent with our Inspection and Enforcement Plan. If we find that staffing is an issue because of the increased workload associated with following up on enforcement referrals then we will reevaluate our staffing at that time.

**Cal/EPA's 1<sup>st</sup> Response (11-19-07):** On the next status report, report the total number of hazardous waste generator routine inspections performed since July 1, 2007. Also, report on the current staffing progress.

**CUPA's 2<sup>nd</sup> Status Update:** The total number of hazardous waste generator inspections performed since July 1, 2007 is 81. This has been done with 4 field staff even though we are funded for 6. One staff person left 2 months ago and one is still in training but will begin hazardous waste generator inspections on his own next month.

As of January 1, 2008 we have a new CUPA Program Element, the Aboveground Petroleum Storage Act, and we will be adding a position to implement that program as well. That makes us two people short at this time.

Regarding our progress obtaining staff, I can report that we continue to interview applicants but have not hired any as of yet. Due to the projected fiscal shortfall this coming year from housing foreclosures in our county ("...the nation's foreclosure capital" according to NPR, Morning Edition, December 28, 2007) and the projected reductions in funding coming from the State of California, which our Environmental Health Department relies on heavily for some programs that depend on General Fund dollars, we are considering the option of redirecting staff within our department to help with the CUPA and other Environmental Health programs. We have every intention of filling all of the open positions in the CUPA program.